IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

WP(C).No. 4188 of 2004(W)

PETITIONER:

A. SANKARAN NAIR, DEVI VILASAM,
THURUTHUSSERY, MEKKADU P.O.-683 589.
(RETIRED HEAD OPERATOR, KERALA WATER AUTHORITY).

BY ADV. SRI.A.JAYASANKAR
SRI.MANU GOVIND

RESPONDENT:

KERALA WATER AUTHORITY,
REPRESENTED BY ITS MANAGING DIRECTOR,
JALA BHAVAN, TRIVANDRUM-695 033.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.4188/2004 W

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE LETTER DTD. 21/06/1996 FROM THE ASSISTANT EXECUTIVE ENGINEER TO EXECUTIVE ENGINEER.

EXT.P2: COPY OF THE LETTER DTD. 04/12/2003 FROM THE RESPONDENT TO THE PETITIONER.

/TRUE COPY/

P.S.TO JUDGE

KSS

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.4188 of 2004-W

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Dated this the 27th day of July, 2007.

JUDGMENT

Going by Ext.P1, petitioner joined service on 1-1-1966 as an NMR worker and was absorbed into the regular establishment with effect from 12-10-1981 in the category of last grade servant. He retired on 31-5-1996 as Head Operator. In the meanwhile, he had earned certain higher grades and the post held by him was upgraded as an Assistant Operator with effect from 1-1-1966. It appears that in 1990, he was granted the third higher grade. He was re-designated to the skilled category in the NMP service as per order dated 18-8-1990. The pay fixation made with effect from 1-11-1980 was revised as per letter dated 7-10-1993 with direction to recover excess pay

drawn. However, no recovery was effected till he retired. Ultimately, after retirement, an amount of Rs.27,174/- is recovered from his DCRG.

2. A reading of the aforesaid would show that in spite of a fixation made with effect from 1-11-1980, the proposal for recovery was generated only on 7-10-1993. The petitioner is one in the lower category in service, he having entered as an NMR worker. The recovery was not effected until he retired. Having regard to semi literate status of the petitioner which has been pleaded by him, with no counter affidavit on record, and having regard to the various categories in which he had worked from 1-1-1966 till his retirement on 31-5-1996, I find that it would be unjust to enforce the recovery as per Ext.P1.

In the result, the impugned Ext.P1 recovery is quashed and it is directed that the amounts recovered on the basis of Ext.P1 shall be released to the petitioner within a period of

45 days from the date of receipt of a copy of this judgment.

The writ petition is allowed as above.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/